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13

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB 13

Revision Date: 1/28/91 Department Affected: Office of the Governor - Elections
 Title: Advisory vote on the issue of BRU: Elections
Capital Punishment Component: II - Primary and General Elections
 Sponsor: Senator Fischer
 Requestor: Judiciary COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		2.2*				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		2.2*				

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		2.2*				
FEDERAL FUNDS						
OTHER						
TOTAL		2.2*				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: -0-

ANALYSIS: (Attach a separate page if necessary.) * This figure covers cost of inclusion of information about this issue in the Official Election Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on this measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be: 53.4.

Prepared By: *JE* Linda Edgeworth, Information Officer Phone: 465-4611
 Division: Division of Elections Date: _____

Approved by Commissioner: *Charles E. Thickett*
 Agency: Division of Elections Date: 1-29-91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & impacted Agency(ies).

Alaska State Legislature

Senator Paul Fischer
Senate District D
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State Senate

While in Juneau
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Juneau, Alaska 99811
(907) 465-3791

MEMORANDUM

TO: Senator Rick Halford, Chairman
Senate Judiciary Committee

FROM: Senator Paul Fischer *PF*

SUBJECT: Senate Bill 13
(Advisory vote on issue of capital punishment)

DATE: January 23, 1991

I would appreciate your scheduling the above referenced bill for a hearing before the Senate Judiciary Committee at your earliest possible convenience.

As a you can see, I've taken a different approach this year to the issue. I feel very strongly that it is a given right for the general public to offer their opinion of this matter.

Your consideration would be greatly appreciated.

PAF/sgn

Alaska State Legislature

Al Adams
District L

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Anchorage, Alaska 99503
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Official Business

TO: Senator Rick Halford, Chair
Senate Judiciary Committee

FROM: Senator Al Adams *ASA*

RE: Senate Bill 13

DATE: March 6, 1991

Attached is an amendment to Senate Bill 13 that I enter for consideration before the Judiciary Committee hearing tomorrow.

I would its inclusion with Senate Bill 13's bill packets that have not yet been distributed.

Thank you.

AMENDMENT BY SENATOR ADAMS TO SENATE BILL 13

PAGE 1, LINES 1 THROUGH 13, DELETE ALL MATERIAL

INSERT:

"An Act directing an advisory vote on whether the Alaska State Legislature should provide by law for life imprisonment without possibility of parole for the crime of murder in the first degree or provide by law for the death penalty for the crime of murder in the first degree or retain the existing penalty for the crime of murder in the first degree."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*Section 1. ADVISORY VOTE AUTHORIZED. The lieutenant governor shall place before the qualified voters of the state at the next statewide general election the question advisory to the legislature of whether the legislature should provide by law for life imprisonment without the possibility of parole for the crime of murder in the first degree, whether the legislature should provide by law for the death penalty for the crime of murder in the first degree, or whether the legislature should retain the existing penalty for the crime of murder in the first degree. The question shall appear on the ballot in substantially the following form:

QUESTION

Which one of the following alternatives should the legislature provide by law for the crime of murder in the first degree?

-] Life imprisonment without possibility of parole
-] Death penalty
-] Retain the 20-99 year sentence in current law

PROPOSED AMENDMENT TO SENATE BILL 13
(Advisory vote on the issue of capital punishment)
BY SENATOR FISCHER

Page 1, line 4: Add new Sec. 1 to read:

*Sec. 1. INTENT. (a) The legislature in proposing an advisory vote on the issue of capital punishment, is seeking the ability to to enact a law providing for capital punishment for murder in the first degree and for the imposition of capital punishment that are consistent with the United States Constitution as interpreted by the United States Supreme Court if mandated by a majority of the qualified voters of the State of Alaska at the next general election.

(b) In the preparation of its neutral summary under AS 15.58.020 (6)(C), the Legislative Affairs Agency shall consider inclusion of the statement of legislative intent contained in (a) of this section.

(c) In the preparation of the true and impartial summary of the amendment under AS 15.50.020, the lieutenant governor shall consider inclusion of the statement of legislative intent contained in (a) of this section.

Renumber remaining Sections accordingly.

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 463-3991
Fax: (907) 463-3351

November 15, 1990

MEMORANDUM

TO: Senator Paul Fischer

ATTN: Sandy Nusbaum

FROM: Christine M. Cheff *cmc*
Legislative Analyst

RE: Capital Punishment
Research Request 91.035

You asked several questions about capital punishment and capital punishment laws in states other than Alaska. Each of your questions is addressed below.

States Where Capital Punishment is Legal

Capital punishment, commonly referred to as the death penalty, is currently legal in 37 states. Over time it has been abolished or declared unconstitutional in many of these states, and then reinstated. The most significant recent event which impacted death penalty laws was the 1972 U.S. Supreme Court ruling in *Furman v. Georgia*. The Court found that procedures for imposing the death penalty in Georgia and Texas were in violation of the Eighth and Fourteenth amendments of the U.S. Constitution. Because virtually all other state death penalty laws were modeled on the Georgia and Texas statutes, they were also considered to be in violation. As a result of the *Furman* decision, many states revised their statutes to meet constitutional requirements. In 1976, laws in Georgia, Florida and Texas were upheld by the U.S. Supreme Court and the death penalty was reinstated.¹

Vermont has a death penalty statute, but it was nullified by the *Furman v. Georgia* ruling and has not been revised. According to Janet Ansell, a Vermont legislative researcher, the sentence of death has been removed from most crimes, and treason is probably the only one for which it might still be imposed. The last execution in Vermont took place in 1959.

¹Mary Fairchild, "Death Penalty Laws," National Conference of State Legislatures, 1989.

Senator Fischer
November 14, 1990
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There are no death penalty statutes in Alaska, Hawaii, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, New York, North Dakota, Rhode Island, West Virginia, Wisconsin or the District of Columbia. The Wisconsin legislature abolished the death penalty law as early as 1853, and there has been no capital punishment statute in Maine or Minnesota since at least 1930.²

Reinstatement of the Death Penalty in the Last 25 Years

Of those states which had abolished the death penalty prior to *Furman v. Georgia*, two have reinstated it.

The South Dakota death penalty statute was abolished for the first time in 1915 and then restored in 1939. After the 1972 *Furman v. Georgia* ruling, it was abolished again. Recodification of state Criminal Procedure statutes to meet federal guidelines in 1979 resulted in enactment of the current law. A copy of the 1979 legislation for reinstatement is attached (Attachment A).

Voters in Oregon repealed the death penalty in a 1964 initiative. Bills to reinstate it have been introduced in virtually every session of the legislature since then. When the Criminal Code was revised in 1971, no death penalty provision was included. Although a 1978 initiative to make aggravated murder a capital offense was approved by the voters, the Oregon Supreme Court ruled it unconstitutional in 1980. Finally in 1984, public opinion and strong support from the governor resulted in passage of a ballot measure to reinstate the death penalty.³ (Attachment B)

1990 Bills Proposing Reinstatement of the Death Penalty

Bills for reinstatement of the death penalty were introduced in Michigan, West Virginia and Wisconsin during the 1990 legislative session.

Michigan is the only state in which capital punishment is prohibited by the Constitution. The Michigan Senate and the House of Representatives introduced joint resolutions for constitutional amendments to provide for the death penalty in first degree murder cases. The more specific House resolution asks that the death sentence be applied in cases of first degree murder of a police or conservation officer and to first degree murder committed in connection with sexual misconduct or with a controlled substance. The Senate resolution includes a jury override provision. Ratification by the voters is required for

²*The Universal Almanac*, 1990, ed. John W. Wright, pp. 204 - 206.

³Nancy Pease, "Reinstating the Death Penalty," Alaska State Legislature, House Research Agency Memorandum 84.002, 1984.

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the adoption of a constitutional amendment. As of October 1990, both bills were still in committee (Attachment C and D).

In West Virginia, four bills for reinstatement of the death penalty died in committee. Proposals ranged from imposing the death penalty for first degree murder to a narrowly focused House Bill which called for the death penalty in cases of first degree murder by an inmate in a West Virginia correctional facility. By a vote of 18 to 16, the Senate defeated a Senate Joint Resolution asking for a statewide referendum to reinstate the death penalty.

Four of the six bills for reinstatement in Wisconsin asked for the death penalty in homicide cases if the defendant is 16 years of age or older. Application of the death penalty for certain controlled substance offenses was called for in a Senate bill. All of the bills died in committee.

Fiscal Impact of the Death Penalty

Most studies about the fiscal impact of the death penalty conclude that, overall, it is more costly than the alternative of life imprisonment. The amount of money spent from pretrial investigation to final appeal is estimated to be as much as ten times more than the amount spent on noncapital cases.⁴

For capital punishment bills introduced during the 1989 Wisconsin legislative session, a cost estimate of \$102,061 for each death penalty case was projected by the State Public Defender. The Wisconsin Department of Health and Social Services estimated the cost of constructing between eight and 30 death row cells at \$1 to \$2 million, and annual staffing and maintenance costs at between \$280,800 and \$530,167. The estimate was based on the number of crimes for which the death penalty was imposed and the length of time required for the appeals process. In 1986 - 1987, Wisconsin spent \$15,568 annually for each prisoner confined to Waupun State Prison.⁵

A study published by the New York State Defenders Association in 1982 "identified 11 levels of review and defined a minimum of 144 cost centers that determine the total price-tag of capital punishment."⁶ By projecting costs across just the first three levels of review--the trial and penalty phase, appeals court and supreme court review--a death penalty case was estimated to

⁴Jonathan Gradess, "Execution Does Not Pay," *Washington Post*, February 28, 1988.

⁵A. Peter Cannon, *Capital Punishment in Wisconsin and the Nation*, (State of Wisconsin, Legislative Reference Bureau 1990), p. 9.

⁶"Capital Losses: The Price of the Death Penalty for New York State," New York State Defenders Association, April 1, 1982.

cost \$1.8 million dollars as opposed to the cost of \$602,000 for 40 years of life imprisonment.

In 1988 the Miami Herald reported that since 1973, \$57.2 million was spent to execute 18 people in Florida. That cost amounted to over \$3 million per execution, which is approximately six times the cost of imprisoning those same people for their entire lives.⁷

Number of Inmates Currently on Death Row

As of December 1983, there were 2,124 persons on death row in the United States.⁸ There were over 200 persons each in the states of California, Florida and Texas awaiting execution, and 118 in Indiana. From two to ninety-eight individuals are on death row in each of the remaining states, except for New Hampshire, South Dakota and Vermont, where there are none.

Number of Executions Carried Out Since 1970

Because of the Supreme Court decision in *Furman v. Georgia*, no executions were carried out between 1968 and 1978. However there have been 104 executions since the Court reinstated the death penalty in 1976. All of those executions occurred in twelve of the 37 states which authorize the death penalty.⁹

Alabama	3	Nevada	2
Florida	19	North Carolina	3
Georgia	13	South Carolina	2
Indiana	2	Texas	29
Louisiana	18	Utah	3
Mississippi	3	Virginia	7

I hope this information will be helpful to you. Please do not hesitate to call if we can be of further assistance with this or other matters.

Attachments

⁷Ronald J. Tabak and J. Mark Lane, "The Execution of Injustice: A Cost and Lack-of-Benefit Analysis of the Death Penalty," *Loyola of Los Angeles Law Review*, 1989, p. 23.

⁸*The Book of States*, Council of State Governments, 1990 - 1991, p. 28.

⁹Cannon, pp. 13 - 14.



The
Alaska
Poll

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MAR 21 1985

ALASKA POLL
February 1985

The ALASKA POLL shows support for death penalty legislation...

The statewide Alaska Poll by the Dittman Research Corporation of Alaska* shows broad Alaskan support for proposed death penalty legislation regarding criminals convicted of serious crimes such as killing policemen and "contract" murderers...

"There as been a bill introduced in the state legislature which would allow capital punishment (the death penalty) for criminals convicted of killing a policeman or murdering for hire. Do you favor or oppose passage of the bill?"

Yes.....77%
No.....21%
Undecided..... 2%

*The Dittman Research Corporation of Alaska has a perfect political public opinion accuracy record dating back to 1972, including each of the six elections decided by one-half of 1% or less.

ALASKA POLL
February 1985

...support is consistent throughout all Alaskan geographic regions...

	<u>% Favor</u>	<u>% Oppose</u>	<u>% Undecided</u>
Rural Alaska	74	22	4
Central Alaska	76	23	1
South Central	78	20	2
Anchorage	78	19	3
Southeast	75	24	1

...and all major political categories are also in support, however Democrats are a little less favorable (70%) than Republicans (82%), and Libertarians or non-partisans (75% each)...

	<u>% Favor</u>	<u>% Oppose</u>	<u>% Undecided</u>
Democrat	70	27	3
Republican	82	18	--
Libertarian	75	25	--
Non-partisan	75	22	3

Age-wise, younger people are more in favor of the proposed legislation...

	<u>% Favor</u>	<u>% Oppose</u>	<u>% Undecided</u>
18-24	79	21	--
25-40	78	21	1
41-55	76	21	3
56 Plus	73	20	7

ALASKA POLL
February 1985

...while females are less likely to be in favor than
males...

	<u>%</u> <u>Favor</u>	<u>%</u> <u>Oppose</u>	<u>%</u> <u>Undecided</u>
Male	80	19	1
Female	74	23	3

SUMMARY

Overall, Alaskans appear to be near the mainstream as far as the nation as a whole is concerned regarding death penalty legislation. Nationwide surveys generally show well over 70% are in favor of the death penalty for particularly serious and gruesome crimes, and 38 other states have passed capital punishment legislation.

Technical data:

Sample size : N=510
Universe : State-wide
Date : February 7 - 17, 1985
Sample error : 3-5%
Methodology : Telephone RDD (random digit dialing)